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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1904.

No. 343.

JOSEPH RALPH BURTON, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

MOTION TO ADVANCE.

JOHN F. DILLON,
FREDERICK W. LEHMANN,
W. H. ROBBINGTON,
Attorneys for Plaintiff in Error.

JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C. 18170

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OCTOBER TERM, 1904.

No. 343.

JOSEPH RALPH BURTON, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES.

Petition of Joseph Ralph Burton, Plaintiff in Error in the Above-entitled Cause, for the Advancement of said Cause to an Early Hearing and Determination.

To the Honorable Supreme Court of the United States:

Your petitioner, Joseph Ralph Burton, respectfully shows unto this honorable court that there is now pending in this court a writ of error to the United States district court for the eastern division of the eastern district of Missouri, and that in obedience to said writ of error there has been lodged in this court the record of the trial of said cause, including a bill of exceptions, and the same is awaiting a hearing herein upon numerous exceptions therein contained; that said proceeding was instituted against your petitioner, who is a duly elected, qualified, and acting United States Senator from the State of Kansas, under an indictment charging

him with violating section 1782 of the Revised Statutes of the United States, a verdict of guilty was returned against him upon divers counts of said indictment, and judgment and sentence pronounced thereon.

Reference is also made by your petitioner to a petition for a writ of certiorari filed in this court in this cause to bring up the record of the said cause pending in the United States circuit court of appeals for the eighth circuit, your petitioner having taken an appeal to the latter court, owing to the urgency of his situation, not being fully advised as to his rights to an immediate appeal to this court under the acts of Congress relating to appeals and writs of error, and to preserve all of his rights and to secure a review of the manifold errors claimed to have been made in said cause against his rights.

By reference to said petition for the writ of certiorari it will be seen that he would have an appeal therefrom to this court on the questions therein raised and involved, and that this court might, therefore, finally determine this cause. Your petitioner respectfully shows to this court, therefore, that inasmuch as this court shall have to hear and determine this cause finally, it is one of nature and character of such high public concern and interest that it should be heard and determined at the earliest possible moment consistent with the rules and convenience of this court. Under the provisions of the statute, and following the terms of the sentence and judgment imposed upon your petitioner under the verdict above referred to, if affirmed, the office of your petitioner is *ipso facto* vacated, and he is forever thereafter disqualified from holding a position of honor, trust, or profit under the Government of the United States.

Your petitioner, believing said conviction to be against the law and wholly unwarranted by the facts, and the result of manifold errors committed at the trial of said cause, is prosecuting his said appeal earnestly and in good faith. But your petitioner respectfully represents that while the judgment of conviction is pending against him, unreversed, he cannot, consistently with his sense of propriety, appear and take part in the deliberations of the Senate or perform or exercise the duties of his office. It is essential that by the judgment of this court he shall entirely vindicate himself from such charges before he present himself in his place in the Senate to represent his State as Senator and to perform the duties of the office to which he has been elected. Until such determination, therefore, whether favorable or adverse to your petitioner, the State of Kansas will be deprived of his services in their body, and will be represented by but one Senator.

Your petitioner further represents that the matters involved in this cause are those affecting in the most important and urgent manner the duties, privileges, and responsibilities of the Senators of the United States, and should be settled and determined at the earliest possible moment consistent with the rules and convenience of this court.

Your petitioner further respectfully refers to a communication hereto attached from the attorney general of the State of Kansas to this honorable court, joining in this request for the advancement of this cause to an early hearing.

All of which is respectfully submitted.

JOHN F. DILLON,
FREDERICK W. LEHMANN,
W. H. ROSSINGTON,
Attorneys for Plaintiff in Error.

STATE OF KANSAS, EXECUTIVE DEPARTMENT,
OFFICE OF ATTORNEY GENERAL,
TOPEKA, KANSAS.

To the Honorable Supreme Court of the United States:

As the law officer of the State of Kansas, I beg to respectfully and earnestly join in the request of Senator Burton for an early hearing of his writ of error. It is desirable in the interest of the State that if he shall be discharged by your judgment he may return at once to the performance of his duties as Senator from Kansas. If the judgment of the court should be otherwise, it is very important that the legislature which meets in the early part of January approaching should be advised in time to speedily choose his successor; and, from all considerations, that this matter shall be disposed of at as early a date as possible, to the end that the State may have its full representation in the Senate of the United States.

I beg to remain, respectfully yours,

C. C. COLEMAN,
Attorney General.

[N. B.—The original of the foregoing letter is on file in the office of the clerk of this court.]